United States General Accounting Office

GAO

Report to the Ranking Minority Member, Energy and Commerce Committee, House of Representatives

November 2001

SECURITIES REGULATION

Improvements Needed in the Amex Listing Program

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20011231 076

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Contents

Abbreviations

Amex	American Stock Exchange
NASD	National Association of Securities Dealers
NYSE	New York Stock Exchange
OCIE	Office of Compliance Inspections and Examinations
SEC	Securities and Exchange Commission
SRO	self-regulatory organization

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Accountability * Integrity * Reliability

United States General Accounting Office
Washington, DC 20548

November 27, 2001

The Honorable John D. Dingell
Ranking Minority Member
Committee on Energy and Commerce
House of Representatives

Dear Mr. Dingell:

A September 2000 press account questioned the quality of companies newly listed for trading on the American Stock Exchange (Amex) and warned that Amex risked losing its reputation by listing an increasing number of very small companies. The Chairman of the Securities and Exchange Commission (SEC) subsequently advised you that about one-third of Amex's new listings in the first 8 months of 2000 did not meet the exchange's equity listing standards,[1] which Amex referred to as guidelines.[2] The Commission stated separately that investors rightfully presume that the companies listed on Amex meet its guidelines and that the Commission would be concerned if Amex routinely approved listings that did not meet them.[3] The development and implementation of listing guidelines fall within Amex's role as a self-regulatory organization (SRO).[4] As part of its oversight of Amex in this role, the SEC Office of Compliance Inspections and Examinations (OCIE) inspected the operations of the Amex listing program and reported the results to Amex in April 2001.[5]

[1] Equity listing standards are a market's minimum quantitative and qualitative requirements that companies must meet for their stock to be eligible for initial and continued listing for trading.

[2] Amex referred to its listing requirements as guidelines because it had retained discretion to list companies that did not meet all of its quantitative requirements.

[3] 65 Fed. Reg. 58136 (Sept. 27, 2000) (SEC order approving amendments to the Amex listing standards).

[4] SROs have an extensive role in regulating the U.S. securities markets, including ensuring that members comply with federal securities laws and SRO rules. National securities exchanges and registered securities associations, along with registered clearing agencies and the Municipal Securities Rulemaking Board, are collectively termed SROs under Section 3(a)(26) of the Securities Exchange Act of 1934. 15 U.S.C. § 78c(26) (1994).

[5] OCIE inspection reports are nonpublic and are issued to the SRO.

This report responds to your increased concern about the adequacy of the guidelines that Amex has used to list a company's stock for trading and the exchange's adherence to them. On the basis of your September 2000 request letter, subsequent correspondence, and meetings with your staff, this report (1) describes the key differences between the Amex equity listing guidelines and the equity listing standards of other U.S. stock markets; (2) reviews certain OCIE recommendations to Amex for improving its equity listing program, focusing on areas of disagreement between OCIE and Amex; and (3) examines how Amex monitors the effectiveness of its equity listing department operations.

Results in Brief

Amex's quantitative and qualitative equity listing guidelines have addressed factors that are the same as or similar to those addressed by the equity listing standards of the other U.S. stock markets. Quantitative requirements generally addressed such factors as share price, stockholders' equity, income, and market value of publicly held shares.[6] However, the minimum thresholds for meeting these requirements varied to reflect the differences in the characteristics—such as size—of the companies that each market targeted for listing. For example, depending on the listing alternative, the minimum market value of a company's public shares was expected to be either $3 million or $15 million under the Amex initial listing guidelines, while this minimum value was either $60 million or $100 million under the New York Stock Exchange (NYSE) standards. In all the U.S. markets, the quantitative requirements for continued listing were generally lower than those for initial listing. Also in all the markets, the qualitative listing requirements generally addressed corporate governance requirements, including such factors as conflicts of interest by corporate insiders, the composition of audit committees, and shareholder approval of corporate actions. The most significant difference between Amex's equity listing guidelines and the listing standards of the other U.S. stock markets was that Amex was one of only two markets that retained discretion to initially list companies that did not meet all of its quantitative requirements.[7]

[6] Market value of publicly held shares, also referred to as the market value of public float, generally refers to the value of shares listed and posted for trading that are not held directly or indirectly by a company insider.

[7] Nasdaq also retained discretion to initially list companies that did not meet its quantitative requirements. According to Nasdaq, as of October 25, 2001, the market had not listed a company pursuant to a waiver of a quantitative listing standard since May 20, 1999.

As of September 7, 2001, Amex had not agreed to implement OCIE's recommendations related to the exchange's use of its discretion in making listing decisions. After identifying a dramatic increase in listings—from 9 percent to 22 percent—that did not comply with Amex's initial guidelines over the two periods examined, OCIE concluded that the investing public was not receiving sufficient information about the eligibility of companies to trade on Amex. Accordingly, OCIE recommended that Amex provide more certainty to the investing public by converting its discretionary guidelines into mandatory standards. Additionally, in response to concerns that Amex was deferring the delisting of companies for what OCIE termed "excessive" time periods and did not have requirements for determining when to begin delistings, OCIE recommended that Amex set firm time limits within which noncomplying companies would have to meet its continued listing guidelines. Pending action on these recommendations, OCIE further recommended that Amex publicly disclose the identity of those companies that did not meet its initial or continued guidelines—for example, by attaching a modifier to the trading symbol. Amex responded to OCIE that it did not want to relinquish its discretionary authority or modify its stock symbols. The exchange stressed the importance of evaluating companies for listing on an individual basis, the adequacy of its existing public disclosure, and the significance of the actions it has already taken to improve its program. Nonetheless, until OCIE's recommendations are addressed, the public could be misled into believing that all Amex listings meet the exchange's guidelines. Reflecting the seriousness of their concerns, OCIE officials told us that in the absence of an Amex agreement to adequately address the recommendations, they would include them among the open[8] significant[9] recommendations to be reported annually to the SEC Commissioners as a result of a 1998 GAO recommendation.[10] The Commission has the authority to require Amex to implement OCIE's recommendations.

[8] Open recommendations, as defined by OCIE, are those recommendations that an SRO has expressly declined to adopt or has failed to adequately address in its response to an inspection report.

[9] OCIE determines that recommendations are significant based on such factors as whether areas of fundamental importance to the SRO's regulatory programs are involved and on the potential impact on investors and the marketplace.

[10] See *Securities Regulation: Oversight of SRO's Listing Procedures Could Be Improved* (GAO/GGD-98-45, Feb. 6, 1998).

Amex officials told us that the exchange was fulfilling its SRO responsibilities related to its equity listing operations in part by individually monitoring the status of companies that did not meet its continued listing guidelines and summarizing related information in monthly reports to management. However, the listing department did not prepare management reports that aggregated and analyzed overall statistics to measure listing program results, such as the percentage of companies granted or denied exceptions to the initial and continued listing guidelines, or the percentage of companies granted exceptions that returned to compliance or were delisted. As a result, Amex and OCIE have lacked information that could be used to demonstrate the effectiveness of Amex's exceptions-granting policies and its initial and continued listing guidelines. Responding to an earlier GAO recommendation, OCIE has required two other markets to develop periodic management reports on their listing programs' operating results. According to an OCIE official, these reports are useful in monitoring the listing activities of the related markets.

This report contains recommendations that the Chairman of SEC, as part of SEC's ongoing efforts to ensure that Amex addresses weaknesses in the management of its equity listing program, (1) direct Amex to implement mandatory quantitative listing requirements or provide ongoing public disclosure of noncompliant companies, and (2) require Amex to report quarterly to its Board of Governors on the operating results of its equity listing program and make these reports available to OCIE for review. Such reports should contain sufficient information to demonstrate the overall effectiveness of the Amex equity listing program, including, at a minimum, that of its exceptions-granting policies and its initial and continued listing guidelines.

We requested comments on a draft of this report from Amex and SEC. The comments are described in detail later in this report, and the written comments appear in appendixes I and II, respectively. Amex committed to taking action to address our recommendation for improving public disclosure of its listing requirements by replacing its discretionary guidelines with mandatory initial and continued listing standards. Also, in response to our recommendation, Amex committed to enhancing its management reports. While we support Amex's proposed changes to its management reports, we believe that these reports could be further enhanced by adding data on the effectiveness of Amex's practices for continued listings. SEC officials said that they were pleased that Amex would be addressing our recommendations and added that they would

continue working with the exchange to ensure that its proposed changes are implemented effectively.

Background

As of June 30, 2001, Amex was the third-largest U.S. market in terms of the number of companies whose common stock it listed.[11] With the common stock of 704 companies listed, Amex trailed only Nasdaq, which had 4,378 listings,[12] and NYSE, which had 2,814 listings. Overall, about 98 percent of the common stocks listed on U.S. markets were listed on Amex, Nasdaq, or NYSE. The remaining markets had significantly fewer listings. For example, the fourth-largest market in terms of the number of companies listed was the Boston Stock Exchange, with 84 listings, 46 of which were also listed on Nasdaq.[13]

In 1998, the National Association of Securities Dealers (NASD), which also owns and operates Nasdaq, purchased Amex. Although Amex retained its independence as an exchange, in July 1999 its equity listing program was moved from New York City to Gaithersburg, Maryland, and integrated with the Nasdaq listing program. In June 2000, NASD completed the first phase of its plan to restructure Nasdaq as a stand-alone stock-based organization. According to Amex officials, as a result of this restructuring, the Amex equity listing department began moving back to New York in November 2000, and the move was completed about 6 months later.

Under federal law and consistent with its responsibilities as an SRO, each U.S. market establishes and implements the rules that govern equity listings in its market with the intent of maintaining the quality of the markets and public confidence in them. In general, a company applies to have its stock listed for trading in a specific market, subject to that market's rules. This process includes submitting an application for review, together with supporting information such as financial statements, a prospectus, a proxy statement, and relevant share distribution

[11] Common stocks are securities that represent an ownership interest in a corporation. If the company has issued preferred stock, common stockholders assume the greater risk but generally exercise greater control and may receive greater returns in the form of dividends and capital appreciation.

[12] Nasdaq is a two-tier market made up of the Nasdaq National Market, which as of June 30, 2001, listed 3,567 larger companies, and the Nasdaq SmallCap Market, which as of the same date listed 811 smaller companies.

[13] The U.S. markets are not limited to trading in the stocks that they list. Under SEC regulations and market rules, stocks may be traded under unlisted trading privileges in markets other than those in which they are listed.

information. As part of making an initial listing decision, the market's equity listing department reviews these submissions for compliance with its listing requirements and conducts background checks of company officers and other insiders. The equity listing department will also monitor companies for compliance with the market's continued listing requirements and, in accordance with the market's rules, will take action when these requirements are not met.

SEC's oversight of a market's equity listing requirements includes reviewing the SRO's proposed rules to ensure that they are consistent with the requirements of the Securities and Exchange Act of 1934. These rules, which make up the market's initial and continued equity listing guidelines or standards, must be approved by SEC and can be changed only with SEC's approval. SEC also reviews the SRO's listing decisions, either on appeal or by its own initiative, and SEC's OCIE periodically inspects the SRO's listing program to ensure compliance with the market's listing requirements.

Listing Requirements Have Generally Addressed the Same Factors, but Amex Has Not Required That All Quantitative Requirements Be Met

In all U.S. markets, quantitative and qualitative listing requirements for equities have generally addressed the same or similar factors. Two aspects of the quantitative listing requirements are noteworthy. First, the minimum thresholds for meeting them varied according to the characteristics of the companies the markets sought to attract. Second, initial listing requirements were generally higher than continued listing requirements. Qualitative listing requirements addressed corporate governance and other factors. The most significant difference between the equity listing requirements of Amex and those of other U.S. stock markets was that Amex was one of only two markets that retained the discretion to initially list companies that did not meet all of its quantitative requirements.

Quantitative Listing Requirements Generally Addressed the Same Factors, Although Minimum Thresholds Varied

Amex's quantitative initial listing guidelines for equities have generally addressed factors that are the same as or similar to those addressed by the initial listing standards of the other U.S. stock markets, including factors such as minimum share price, stockholders' equity, income, market value of publicly held shares, and number of shareholders. However, the minimum thresholds for meeting the requirements of each market have varied to reflect the differences in the characteristics—such as size—of the companies that each market targeted for listing. For example, Amex has marketed itself as a niche market designed to give growth companies access to capital and to the markets. A company could qualify for initial listing on Amex under one of two alternatives. Under both alternatives, a

company was required to have a minimum share price of $3 and minimum stockholders' equity of $4 million (see table 1). In addition, under one alternative, a company could qualify for listing with no pretax income, a minimum market value of publicly held shares of $15 million, and a 2-year operating history. Under the other alternative, a company was required to have minimum pretax income of $750,000, either in the latest fiscal year or in 2 of the most recent 3 fiscal years, and a minimum market value of publicly held shares of $3 million.

Table 1: Comparison of Quantitative Initial and Continued Listing Requirements for Selected Factors in the Largest U.S. Stock Markets (October 25, 2001)

			Nasdaq[a]					
Selected factors	**Amex**		**SmallCap Market**		**National Market**		**NYSE**	
	Initial	**Continued**	**Initial**	**Continued**	**Initial**	**Continued**	**Initial**	**Continued**
Share price	$3	NR[b]	$4	$1	$5	$1 or $3	NR	$1
Stockholders' equity (dollars in millions)	$4	$2 or $4	$5	$2.5	NR, $15, or $30	NR or $10	NR	$50
Income: pretax or net[c] (dollars in millions)	NR or $.75[d]	NR	$.75[d]	$.5[d]	$1[d]	NR	$6.5[e]	NR
Market value of publicly held shares (dollars in millions)	$3 or $15	$1	$5	$1	$8, $18, or $20	$5 or $15	$60 or $100	$50[f]
Number of shareholders	400 or 800	300	300	300	400	400	500 to 2,200	400 or 1,200

Note: This table does not include all the markets' listing requirements, which typically involve two or more factors and two or more listing alternatives. When multiple requirements are shown for a factor, the actual requirement will depend on the listing alternative, which may not be fully reflected in the table.

[a]In response to the September 11, 2001, terrorist attacks on the United States, Nasdaq implemented an across-the-board moratorium on the minimum-bid and market value of public-float requirements for continued listing on Nasdaq, effective through January 2, 2002.

[b]No requirement (NR) exists for this factor.

[c]The income requirements are pretax, except for the Nasdaq SmallCap Market, where they are net.

[d]The income shown is for the latest fiscal year or 2 of the 3 most recent fiscal years.

[e]The income shown is a 3-year cumulative requirement in which each year must have positive income.

[f]The requirement is for total market value of all shares, rather than market value of publicly held shares.

Sources: Individual markets' listing guidelines or standards, as applicable.

The Nasdaq SmallCap Market focused on smaller companies that were generally similar in size to those listed on Amex, and its listing standards and minimum thresholds were similar to Amex's. To be eligible for listing on the Nasdaq SmallCap Market, a company was required to have, among

other things, a minimum share price of $4, a minimum market value of publicly held shares of $5 million, a 1-year operating history, and either a minimum net income of $750,000 in the latest fiscal year or in 2 of the most recent 3 fiscal years, or $5 million of stockholders' equity. Alternatively, if the company did not meet the operating history, income, or equity requirements, the minimum market value of all shares was required to be $50 million.

In contrast to Amex and the Nasdaq SmallCap Market, the Nasdaq National Market and NYSE targeted larger companies, and their listing standards had higher minimum thresholds. For example, the Nasdaq National Market required in part that listing companies have a minimum of $1 million in pretax income in the latest fiscal year or in 2 of the 3 most recent fiscal years, along with a minimum market value of publicly held shares of $8 million, depending on the listing alternative. In comparison, NYSE required a company to have, among other things, a minimum total pretax income of $6.5 million for the most recent 3 years and a minimum market value of publicly held shares of $60 million or $100 million, depending on the listing alternative.

The quantitative continued listing requirements (the minimum thresholds that listed companies must maintain to continue to be listed) were generally lower than those for the initial listing requirements (see table 1). For example, although Amex's initial listing guidelines required, under one alternative, that a company have at least $4 million of stockholders' equity and $750,000 in pretax income, a company could remain in compliance with the continued listing guidelines even if it had losses in 3 of the last 4 years (beginning with its listing date), provided that it maintained $4 million in stockholders' equity. Such differences between initial and continued listing requirements were typical of all the U.S. markets.

Qualitative Listing Requirements Have Addressed Corporate Governance and Other Factors

The qualitative listing requirements for equities in all U.S. markets addressed corporate governance requirements as well as various other factors. Corporate governance requirements are generally concerned with the independence of corporate management and boards of directors, as well as with the involvement of shareholders in corporate affairs. These requirements address such factors as conflicts of interest by corporate insiders, the composition of the audit committee, shareholder approval of certain corporate actions, annual meetings of shareholders, the solicitation of proxies, and the distribution of annual reports.

U.S. markets may also consider various other qualitative factors when considering a company for listing. These factors are inherently subjective and are not subject to comparison among markets. For example, Amex's guidelines stated that even though a company may meet all of the exchange's quantitative requirements, it may not be eligible for listing if it produces a single product or line of products, engages in a single service, or sells products or services to a limited number of companies. In addition, in making a listing decision, Amex would consider such qualitative factors as the nature of a company's business, the market for its products, the reputation of its management, and the history or recorded pattern of its growth, as well as the company's financial integrity, demonstrated earning power, and future outlook.

Amex Retained the Discretion to List Companies That Did Not Meet Its Quantitative Guidelines

Although all U.S. markets had rules giving them the discretion to apply additional or more stringent requirements in making an initial or continued listing decision, only Amex and Nasdaq retained the discretion to initially list companies that did not meet their quantitative requirements.[14] The Amex listing guidelines stated that the exchange's quantitative guidelines are considered in evaluating listing eligibility but that other factors are also considered. As a result, Amex might approve a listing application even if the company did not meet all the exchange's quantitative guidelines. Amex believed that it was important for the exchange to retain discretion to approve securities for initial listing that did not fully satisfy each of its quantitative requirements because it would be impossible to include every relevant factor in the guidelines, especially in an evolving marketplace.

Amex Did Not Agree to OCIE's Recommendations on Listing Requirements and Public Disclosures

As of September 7, 2001, Amex had not agreed to implement OCIE's recommendations related to the exchange's use of its discretion in making listing decisions. Amex was unwilling to relinquish its discretionary authority or to modify its stock symbols to address OCIE's concerns. OCIE officials told us that if these recommendations were not addressed, OCIE would include them among the open significant recommendations that are to be reported annually to the SEC Commissioners.

[14] As noted earlier, Nasdaq also retained this discretion, but had not listed a company pursuant to a waiver of a quantitative listing standard since May 20, 1999.

OCIE Recommendations Addressing Amex's Use of Its Discretion Remained Open

OCIE reported in April 2001 that the Amex listing department was generally thorough in its financial and regulatory reviews of companies seeking to be listed on the exchange. However, OCIE also reported that Amex was using its discretionary authority more often than was appropriate to approve initial listings that did not meet the exchange's quantitative guidelines, and that it did so without providing sufficient disclosure to the investing public. OCIE reported that the percentage of companies Amex listed that did not meet the exchange's initial quantitative guidelines increased from approximately 9 percent for the 20 months between January 1, 1998, and August 31, 1999, to approximately 22 percent for the subsequent 14.5 months ending on November 13, 2000. OCIE noted that although Amex's listing guidelines are discretionary, investors rightfully presume that the companies listed on Amex generally meet its quantitative and qualitative guidelines.

In response to concerns that the investing public was not receiving sufficient information about the eligibility of companies to trade on Amex, OCIE recommended that Amex amend its rules to provide mandatory initial quantitative listing requirements. Until the mandatory listing requirements are in place, OCIE recommended that Amex provide some form of public disclosure to identify companies that do not meet its initial listing guidelines. For example, Amex could attach a modifier to the trading symbols of these companies. The report indicated that another alternative would be to issue a press release each time Amex lists a company that does not meet its quantitative guidelines. However, OCIE officials said that a press release was not the preferred form of public disclosure because it was a one-time occurrence, while a symbol modifier would accompany a listing until the company complied with Amex listing requirements.

OCIE also expressed concerns about Amex's use of its discretionary authority in making continued listing decisions. The concerns it raised in its April 2001 inspection report were similar to those raised in a 1997 report. In both reports, OCIE concluded that Amex did not identify noncompliant companies in a timely manner and that it deferred delisting actions for too long and without good cause. In addition to citing lapses in Amex's timely identification of companies that did not meet its continued listing guidelines, OCIE reported in 2001 that for 5 of 34 companies reviewed, or 15 percent, Amex either granted excessive delisting deferrals or did not begin delisting proceedings in a timely manner. Also, we learned from Amex that 71 companies—about 10 percent of the exchange's 704 listings—did not meet all aspects of its continued listing guidelines as of

July 31, 2001. Of these, 12 companies had been out of compliance with its guidelines for more than 2 years, and 20 companies had been out of compliance for between 1 and 2 years (see table 2).

Table 2: Duration of Time That Companies Did Not Comply With Amex's Continued Listing Guidelines (July 31, 2001)

Duration of time	Number of companies
Less than 6 months	25[a]
6-12 months	14[b, c]
1-2 years	20[a,b]
More than 2 years	12
Total	71

[a]Includes one company that was delisted.

[b]Includes one company that came into full compliance after July 31, 2001.

[c]Includes one company for which an appeal of a delisting notification was in progress as of September 6, 2001.

Source: Amex.

In addition, under a November 2000 Amex rule change, listed companies were required to issue a press release to inform current and potential investors when Amex notified the companies of a pending delisting decision.[15] According to Amex, the exchange had sent notices to 18 companies of potential delisting between the time of the rule change and August 30, 2001. Amex informed us that these companies had not been in full compliance with the continued listing guidelines for an average of about 6.5 months before receiving the notice.

In response to the concerns OCIE expressed in 1997 about Amex deferring delisting action without good cause, the exchange agreed to review on a quarterly basis the status of companies that did not meet its continued listing standards and to document its rationale for allowing noncompliant companies to remain listed. OCIE believed that by more closely scrutinizing the actions that companies were taking to comply with the exchange's continued listing guidelines, Amex would be more likely to delist companies that were noncompliant for excessive periods. However, OCIE found in its most recent inspection that although Amex had performed the agreed-upon quarterly reviews, the exchange was still not taking timely action to delist noncompliant companies.

[15] See Release No. 34-43559, File No. SR-Amex-00-43.

OCIE recommended in its 2001 inspection report, as it had in its 1997 report, that Amex identify in a more timely manner the companies that did not comply with its continued listing guidelines, grant delisting deferrals to noncompliant companies only if the companies could show that a reasonable basis existed for assuming they would return to compliance with the listing guidelines, document reviews of each company's progress in coming into compliance with the listing guidelines, and place firm time limits on the length of delisting deferrals. The report also recommended that Amex append a modifier to the company's listing symbol or devise an alternative means of disclosure to denote that a company was not in compliance with Amex's continued listing guidelines.[16]

Amex Did Not Agree to Relinquish Its Discretionary Authority or to Modify Its Stock Symbols

As of September 7, 2001, OCIE and Amex were in ongoing discussions about the actions Amex would take to address OCIE's recommendations. However, in responding to OCIE's 2001 inspection report and in subsequent discussions with OCIE officials, Amex indicated that it did not want to relinquish its discretionary authority or to modify its stock symbols. Amex stressed the importance of being able to evaluate a company's suitability for listing on a case-by-case basis. The exchange further responded that its published listing policies put potential investors on notice that Amex would evaluate an applicant based on a myriad of factors and might approve companies for listing that did not meet all of its quantitative guidelines. In addition, Amex cited the November 2000 rule change under which companies are required to issue a press release to inform investors of a pending delisting decision. Amex officials also told us that investors could obtain sufficient information about a company's operating condition from other public sources, obviating the need for a stock symbol modifier or other public notice.

OCIE officials said that they believed additional disclosure to the investing public would be necessary until Amex turned its equity guidelines into firm standards. The officials remained concerned that individual investors were unaware that Amex's listing guidelines provided broad discretion in making listing decisions. They emphasized that they were concerned about Amex's discretion to list companies that did not meet its quantitative guidelines, stressing that they did not want to remove Amex's discretion to apply additional or more stringent requirements in making

[16] Although the OCIE report specifically recommended that Amex "consider" appending a symbol, OCIE officials told us that Amex was expected to act on the recommendation.

listing decisions. Further, although the OCIE report acknowledged that alternative disclosure mechanisms existed, OCIE officials said that attaching a modifier to a stock's listing symbol to indicate that a stock did not meet either the initial or continued listing standards would provide the broadest and therefore most preferred type of disclosure. For example, a company's press release making public a delisting decision would not be a preferred form of disclosure because, depending on the circumstances, a company could remain out of compliance with Amex's continued listing requirements for months or years without being subject to a delisting decision. To address this concern, NYSE requires a company to issue a press release when the exchange notifies the company that it does not meet the continued listing requirements. Nonetheless, a press release is a one-time notice and, as such, may limit potential investors' awareness of a company's listing status.

Amex also expressed concern that OCIE was imposing strict requirements on its market that would not be applicable to other markets. Amex specifically noted that neither the Nasdaq National Market nor NYSE appended a symbol to listed securities that did not meet their continued listing requirements. Amex officials told us that requiring Amex to do so could mislead investors into believing that other markets do not follow listing practices similar to those of Amex. Amex also said that a modifier would place an unwarranted negative label on the company and send an inappropriate message to the market. As noted above, companies listed on Amex have more closely resembled those listed on the Nasdaq SmallCap Market than those listed on the Nasdaq National Market. According to a Nasdaq official, the Nasdaq SmallCap Market has used a modified listing symbol for all companies that fall below its continued listing requirements since the market began operating in 1982,[17] and 10 stocks had modified symbols as of August 15, 2001. Nonetheless, OCIE officials said that they are in the process of inspecting the listing programs at Nasdaq and NYSE and would, if they determined that companies were listed that did not meet the markets' equity listing standards, recommend that stock symbol modifiers be used to identify such companies.

[17] According to Nasdaq, when the National Market and SmallCap Market were formed in 1982, Nasdaq's existing practice of using symbol modifiers was discontinued for the National Market because Amex and NYSE did not have such a requirement.

Finally, Amex said that a November 2000 rule change,[18] as well as significant staffing changes that include a new department head, were having the effect of reducing the number of stocks approved for listing that did not meet the exchange's quantitative guidelines. According to Amex, from November 1, 2000, through August 27, 2001, 6 of the 39 new listings—approximately 15 percent—were granted exemptions to the exchange's quantitative listing guidelines. Five companies were approved for listing based on an appeal to the Committee on Securities, and one company was approved by the listing department staff because it had "substantially" met all of the exchange's initial listing guidelines. According to Amex, the determination of substantial compliance was based on the fact that the applicant had met all the exchange's guidelines, except that the company's price at the time of approval was $2.9375, instead of the $3.00 minimum required by the guidelines. As discussed earlier, OCIE had found that 22 percent of new listings for a prior period had been granted exemptions. Amex officials said that they expected the downward trend to continue in the number of stocks approved for listing that did not meet the exchange's quantitative guidelines. OCIE officials told us that they had considered the changes to the Amex listing program in making their recommendations.

OCIE Planned to Report to the SEC Commissioners on Significant Recommendations That Amex Did Not Agree to Implement

In a 1998 report, we recommended that the SEC Chairman require OCIE to report periodically on the status of all open, significant recommendations to the SEC Commissioners. Our rationale was that involving the Commissioners in following up on recommendations would provide them with information on the status of corrective actions that OCIE had deemed significant. Also, because the Commissioners have the authority to require the SROs to implement the staff's recommendations, reporting to them would provide the SROs with an additional incentive to implement these recommendations. After preparing its first annual report in August 1998, including both significant recommendations on which action had been agreed to but not completed and recommendations that had been rejected, OCIE determined that future reports would include only the status of

[18] Before the rule change, Amex listing staff could forward an application that did not meet the quantitative listing guidelines to Amex's Committee on Securities with a recommendation for approval. Under the rule change, an applicant that is not approved for listing is responsible for appealing the determination to the Committee, thereby elevating authority for granting the exception. However, listing staff are still authorized to approve a company for listing if they determine that a company is in "substantial" compliance with Amex's listing requirements. (See Release No. 34-43308, File No. SR-Amex-00-12.)

significant recommendations that an SRO had expressly declined to adopt or had failed to adequately address. Reflecting the seriousness of their concerns about the open recommendations related to Amex's use of its discretionary authority in making initial and continued listing decisions, OCIE officials told us that in the absence of an Amex agreement to adequately address these recommendations, OCIE would include them among the open significant recommendations to be reported annually to the SEC Commissioners.

Amex Did Not Prepare Management Reports That Demonstrated the Effectiveness of Its Listing Program

Amex officials told us that the exchange was fulfilling its SRO responsibilities related to its equity listing operations in part by individually monitoring the status of companies that did not meet its continued listing guidelines and, beginning in January 2001, by summarizing related information in monthly reports to management. These monthly reports provided information on the output of the department's activities, including the names and total number of companies that did not meet the continued listing guidelines, the reasons that individual companies did not meet the guidelines, the date of the latest conference with each company to discuss its listing status, the total number of such conferences held, and the total number of decisions made on the basis of these conferences.

The Amex listing department did not, however, prepare management reports that aggregated and analyzed overall statistics to measure program results over time. As a result, Amex could not demonstrate the effectiveness of its exceptions-granting policies or its initial and continued listing guidelines. For example, Amex did not routinely aggregate or analyze statistics on the percentage of applicants listed that were granted exceptions to initial or continued listing guidelines, or on the length of time that companies were not in compliance with the continued listing guidelines and their progress in coming back into compliance with them. Collecting and analyzing such data over time, especially in conjunction with the outcomes for these companies—whether they achieved compliance or were delisted—could provide Amex and OCIE with an indicator of the effectiveness of Amex's process for granting exceptions. Analysis of this information could also help Amex and OCIE determine whether a significant difference exists between the outcomes for companies that meet the listing guidelines and those that do not. Also, although Amex told OCIE that it continually "monitors" to determine whether its guidelines need to be revised, Amex did not develop and aggregate statistics on the number of companies delisted or on the reasons for delistings, such as noncompliance with listing requirements or a move

to another market. As indicated above, Amex provided us with some of this information in response to a specific request but also told us that the listing department did not routinely aggregate such information for management purposes. Collected and analyzed over time, this information could provide Amex and OCIE with an indicator of the effectiveness of Amex's initial and continued listing guidelines and, therefore, could be useful in identifying appropriate revisions to them.

Other markets have developed this kind of management report. In response to concerns about the effectiveness of Nasdaq's listing department, we recommended in 1998 that SEC require NASD to develop management reports based on overall program statistics. The resulting quarterly reports to senior Nasdaq management and OCIE include data on the number and disposition of listing applications, number and reasons for noncompliance with continued listing standards, disposition of companies that do not comply with the continued listing standards, requests for and results of hearings, status of companies granted temporary exceptions to the continued listing standards as a result of hearings, and number of and reasons for delistings. As a result of a 1998 OCIE recommendation, NYSE submits reports containing similar information to the NYSE Board of Directors and, upon request, to OCIE. According to an OCIE official, the resulting quarterly reports are useful for monitoring the listing activities of these markets.

Conclusions

Amex's use of its discretion to initially list and continue to list companies that do not meet the exchange's quantitative guidelines for equities could mislead investors, who are likely to assume that the companies listed on Amex meet the exchange's listing guidelines. Because investors are entitled to clear information for use in making investment decisions, they should be informed when listed companies do not meet these guidelines. Amex has reiterated its concern about the potentially negative impact of being the only market to publicly identify listings that do not meet its guidelines. The Nasdaq SmallCap Market already uses stock symbol modifiers for companies that do not meet its continued listing standards. Also, OCIE officials told us they would recommend that other markets disclose noncompliance with their continued listing standards. (OCIE did not identify noncompliance with initial listing standards as an issue.) Ultimately, Amex could avoid concerns about the negative impact of public disclosure by adopting firm quantitative guidelines. In the meantime, including the recommendations that Amex rejected in the OCIE annual reports to the SEC Commissioners—who have the authority to

require their implementation—would provide an additional incentive for Amex to act.

Notwithstanding Amex's expectation that changes to its listing program would result in diminished use of its discretion, the ongoing concerns about weaknesses in program operations and the potentially negative impact of exchange practices on public confidence warrant continued monitoring of Amex's listing program. Both Amex and OCIE could use routine management reports that reflect the performance of the exchange listing program to improve oversight of the program. Amex officials did not use aggregated and analyzed information on the results of the listing process to help judge its overall effectiveness, including that of its exceptions-granting policies or its initial and continued listing guidelines. Such information would include, among other things, the number and percentages of companies listed that have exceptions to the initial and continued listing guidelines, the number and percentages of companies in each group that are delisted, the reasons for the delistings, and the turnover rate for listings. Aggregating and analyzing such information could help Amex and OCIE to identify and address weaknesses in Amex's listing program operations.

Recommendations to the Chairman, SEC

As part of SEC's ongoing efforts to ensure that Amex addresses weaknesses in the management of its equity listing program, we recommend that the Chairman, SEC,

- direct Amex to implement mandatory quantitative equity listing requirements or provide ongoing public disclosure of noncompliant companies, and
- require Amex to report quarterly to its Board of Governors on the operating results of its equity listing program and make these reports available to OCIE for review. Such reports should contain sufficient information to demonstrate the overall effectiveness of the Amex equity listing program, including, at a minimum, that of its exceptions-granting policies and its initial and continued listing guidelines.

Agency Comments and Our Evaluation

We obtained written comments on a draft of this report from Amex and SEC officials. The written comments are presented in appendixes I and II, respectively. Amex committed to taking action to address our recommendation for improving public disclosure of its listing requirements by replacing its discretionary guidelines with mandatory initial and continued listing standards (see appendix I, exhibits A and B).

Also in response to our recommendation, Amex committed to enhancing its management reports as they relate to its initial listing program. SEC officials commented that they were pleased that Amex would be making changes to its listing program that would address the findings and recommendations outlined in our report, and they said they would continue working with Amex to ensure that the proposed changes are implemented effectively.

Amex noted in its comment letter that its proposals are broad and that the various details would be finalized as part of the rule approval process, which involves SEC. In earlier discussions with Amex about its draft proposals, we expressed the view that Amex's rules would provide for greater investor protection if they included specific time frames for notifying the public about material events related to a company's listing status. For example, such time frames would provide for expeditiously notifying the public after Amex advises a company that delisting proceedings are to be initiated. We also observed that Amex had not established other critical time frames for procedures such as advising a company that it does not meet the exchange's continued listing requirements. Amex indicated in its comment letter that it intends to include applicable time frames as it works out the details of its proposals. SEC officials told us that they would work with Amex to ensure that appropriate time frames are established.

In agreeing to enhance its management reports to address our recommendation, Amex acknowledged the potential value of these reports in light of proposed changes to its initial listing requirements. Under these proposed changes, companies could qualify for initial listing under Amex's "regular" listing standards or, subject to mitigating circumstances, under its less stringent "alternative" standards. Amex committed to enhancing its management reports with information on companies that have been approved under the proposed alternative standards to provide for executive management review of the continued status of such companies, as compared with those approved for listing pursuant to its regular listing standards. Amex believes that its enhanced management reports should be useful in providing feedback on the application of the alternative standards to the Amex Board of Governors, Amex Committee on Securities, and SEC. SEC officials told us that they would use the enhanced reports to monitor implementation of the alternative standards. Although we support the changes proposed by Amex, we believe that the management reports would be of even greater use to Amex and SEC in their oversight if they included data on the effectiveness of Amex's practices for continued listings in addition to data on the exchange's

exceptions-granting practices for initial listings. Our report discussed the kinds of aggregated and analyzed data that would be important to include in Amex's management reports and that Nasdaq and NYSE include in their reports. Amex would benefit by working with SEC to ensure that the exchange's reports contain similar information.

Scope and Methodology

To describe the key differences between the Amex initial and continued equity listing guidelines and the equity listing standards of other U.S. stock markets, we compared the quantitative and qualitative guidelines and standards of the seven U.S. markets that are registered to trade stock and that have listing requirements. These markets include six national securities exchanges—Amex, the Boston Stock Exchange, the Chicago Stock Exchange, NYSE, the Pacific Exchange, and the Philadelphia Stock Exchange—and one national securities association, the Nasdaq Stock Market. The seventh national securities exchange, the Cincinnati Stock Exchange, trades only stocks that are listed on other exchanges and does not have listing standards. We also interviewed officials from SEC's OCIE and from Amex, Nasdaq, and NYSE to gain a further understanding of the initial and continued listing requirements of each market. This report places greater emphasis on the results of our comparison of Amex guidelines with the standards of Nasdaq and NYSE, because about 98 percent of U.S. common stocks were subject to the listing requirements of one of these three markets at the time of our review.

In reviewing OCIE recommendations to Amex for improving its equity listing program, we discussed the contents of the April 2001 inspection report and Amex's written response to it with officials of OCIE and Amex's Listings Qualifications Department and Office of General Counsel, focusing on the areas of disagreement between OCIE and Amex. Additionally, we examined OCIE's 1997 inspection report on Amex's listing activities, Amex's response, and associated correspondence to determine the nature of weaknesses identified in the OCIE inspection and how they were resolved. We also reviewed related GAO reports.

To examine how Amex monitors the effectiveness of its equity listing department operations, we interviewed Amex and OCIE officials. We also reviewed related GAO reports and examined the Nasdaq and NYSE quarterly management reports that are provided to OCIE.

We conducted our work in Chicago, IL; New York, NY; and Washington, D.C., from November 2000 through October 2001, in accordance with generally accepted government auditing standards.

As agreed with you, unless you publicly release its contents earlier, we plan no further distribution of this letter until 30 days from its issuance date. At that time, we will send copies to the Chairmen and Ranking Minority Members of the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Financial Services; the Chairman of the House Energy and Commerce Committee; and other interested congressional committees and organizations. We will also send copies to the Chairman of SEC and to the Chairman and Chief Executive Officer of Amex. Copies will also be made available to others upon request.

If you or your staff have any questions regarding this report, please contact me at (202) 512-8678, hillmanr@gao.gov, or contact Cecile Trop, Assistant Director, at (312) 220-7705, tropc@gao.gov. Key contributors include Neal Gottlieb, Roger Kolar, Anita Zagraniczny, and Emily Chalmers.

Sincerely yours,

Richard J. Hillman

Richard J. Hillman
Director, Financial
Markets and Community Investment

Appendix I: Comments From the American Stock Exchange

AMERICAN STOCK EXCHANGE
Equities Options ETFs

Michael J. Ryan, Jr.
Executive Vice President
and General Counsel

November 14, 2001

Mr. Richard J. Hillman
Director
Financial Markets and Community Investment
United States General Accounting Office
441 G Street, N.W.
Washington, D.C. 20548

Dear ~~Mr. Hillman~~ Rick:

Thank you for providing us an opportunity to comment on the United States General Accounting Office ("GAO") draft report to The Honorable John D. Dingell regarding the American Stock Exchange ("Amex" or "Exchange") listing program. As we have stated in the past, the American Stock Exchange is unique among U.S. national securities exchanges. We are the only exchange to provide the value-added services of an auction market environment to small and mid-cap companies. The alternative-trading platform for many companies that are not approved for listing on the American Stock Exchange is the OTCBB or pink sheets. Neither of these alternatives provide the benefits inherent in an Amex listing of comprehensive regulation, transparent price discovery and trade reporting to facilitate best execution, and increased depth and liquidity resulting from the confluence of order flow found only in an auction market environment.

Given our unique role in an increasingly complex marketplace, we believe that it is essential that there is measured flexibility in our listing standards and procedures that will allow prudent business judgment to play a role in determining whether a company is appropriate for listing on the American Stock Exchange even if it does not meet our regular listing standards. In connection with our ongoing discussions with the Securities and Exchange Commission ("SEC") staff, management of the American Stock Exchange will be recommending to its Board of Governors certain improvements and enhancements to our listing standards and procedures.

We note that since the last inspection by the SEC Office of Compliance Inspections and Examinations some significant changes, ongoing even while the GAO staff was here, have been made to the Amex listing program. These include the (i) reintegration of the listings qualification function back to Amex management, (ii) commitment and development of the necessary human and technical resources to facilitate a more effective listing program, (iii)

Mr. Richard J. Hillman
November 14, 2001
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design and implementation of new Exchange regulations governing our new and continued listing process, (iv) imposition of definitive timeframes for staff review of significant corporate events, and (v) continuing evolution of a management reporting system to ensure that senior Exchange management is continually alerted to any developing trends emerging from the listings qualification process.

We are confident that these changes, together with the attached proposals, which also have been in development for some time, address the outstanding "open issues" in connection with SEC Office of Compliance Inspections and Examinations oversight of the Amex's listing process as well as the issues raised in your report.

We attach two exhibits that summarize our proposals. These proposals are necessarily broad at this point, in that we anticipate finalizing various details, including applicable time frames, as we go through the rule approval process with the SEC. In summary, we will recommend to the Board of Governors the following changes:

First, amend the language in Sections 101 and 1003 of our Company Guide (as well as other relevant sections) to replace all references to listing "guidelines" with references to listing "standards."

Second, adopt new listing standards relating to the authority of the Committee on Securities ("Committee") in respect of their review of initial listings (see Exhibit A). The new standards would limit the authority of the Committee. Specifically, the Committee would be able to approve a company that did not satisfy the regular initial listing standards only if: (a) the company satisfies alternative listing standards outlined in Exhibit A; (b) the Committee makes an affirmative finding that there are mitigating factors that warrant listing pursuant to the alternative standards; and (c) the company issues a press release disclosing the fact that it had been approved pursuant to the alternative standards. We believe that this approach will ensure that investors have notice of the manner in which a company is listed on the American Stock Exchange.

Third, in the case of the continued listing review process, adopt new procedures that would impose definitive time limits with respect to how long a non-compliant company can retain its listing (see Exhibit B).

Fourth, adopt certain new initial listing and continued listing standards that would be applied by the Listing Qualifications Department that we believe are necessary and appropriate for the Exchange to administer its listing qualifications function in a more fair, efficient and transparent manner to reflect the ever-evolving changes in the capital markets. Please note that these new standards are incorporated into the relevant charts contained in Exhibits A and B.

Finally, we have augmented our management reports for use in monitoring the American Stock Exchange listing function. Most notably, the Vice President for Listing Qualifications and I meet monthly to review outstanding listing applications, companies

Mr. Richard J. Hillman
November 14, 2001
Page 3

recently listed pursuant to our regular or alternative listing standards, and the performance of companies failing to meet or in jeopardy of failing to meet our continued listing standards. We will also enhance these reports with information regarding companies which have been approved for listing pursuant to the proposed alternative standards to provide for executive management review of the continued status of such companies as compared to those approved for listing pursuant to our regular listing standards. Through this process we will be able to provide feedback to our Committee on Securities and Board of Governors as to the effectiveness of our application of the alternative standards. This information, as with all regulatory information of a self-regulatory organization, is, of course, available to the Commission upon request.

We believe these proposed changes address the recommendations contained in your draft report, while preserving the unique role of the American Stock Exchange in the capital raising process and as a marketplace for small and mid-cap companies. Once again, we appreciate the opportunity to comment on the draft report. Please feel free to contact me if you would like to discuss this further.

We look forward to discussing these proposals with you.

Sincerely,

Michael J. Ryan, Jr.

Attachments: Exhibit A
Exhibit B

cc Lori Richards, Director
Office of Compliance Inspections and Examinations
Securities and Exchange Commission

Annette Nazareth, Director
Division of Market Regulation
Securities and Exchange Commission

Subject to Board Consideration and Approval

Exhibit A

Summary of Proposed New Initial Listing Standards and Procedures

1. **Regular Listing Standards** – Listing Qualifications Staff evaluates a listing application.
   a) Approves if it meets regular listing standards:

   General Approach

	101(a)	101(b)
Shareholders' Equity	$4 million	$4 million
Pre-tax income	$750,000	N/A
Public Float/ Public Stockholders	Alt. 1 – 500,000/800 Alt. 2 – 1 million/400 Alt. 3 – 500,000/400 (plus average daily volume of 2,000 shares)	
Operating History	N/A	2 years
Market Value Public Float	$3 million	$15 million
Price	$3	$3

   or

   Market Capitalization Approach

Shareholders' Equity	$4 million
Total Value of Market Capitalization	$50 million
Market Value of Public Float	$15 million
Public Float/Public Stockholders	Alt. 1 - 500,00/800 Alt. 2 - 1 million/400 Alt. 3 - 500,000/400 (plus average daily volume of 2,000 shares)

   or

   Currently Listed Securities
   A company which is listed on the New York Stock Exchange or Nasdaq National Market and fully satisfies the Exchange's continued listing standards will be deemed to qualify for listing.

   All existing qualitative listing standards will continue to be applicable under each of these standards.

   b) Denies if it does not meet regular standards.

Subject to Board Consideration and Approval

2. **Alternative Listing Standards** – Company that is denied has appeal right to Committee on Securities ("COS").
   a) COS can approve listing under the following circumstances.
      i) Company satisfies alternative listing standards:

	101(a) Alternative	101(b) Alternative
Shareholders' Equity	$3,000,000	$3,000,000
Pre-Tax Income	$500,000	N/A
Market Value Public Float	$2,000,000	$10,000,000
Distribution	Alt. 1 – 400,000 shares plus 600 public shareholders Alt. 2 – 800,000 shares plus 300 public shareholders	
Price	$2	$2

      ii) COS makes an affirmative finding that there are mitigating factors which warrant listing pursuant to alternative standards.
      iii) Company issues a press release disclosing that it has been approved pursuant to alternative standards.
   b) LQ management will make a recommendation to COS arguing for or against approval

3. The company can appeal COS decisions to Adjudicatory Council and COS decisions will be subject to call for review by Amex Board.
   a) Adjudicatory Council and Board decisions subject to same constraints as COS.
   b) The company can appeal an adverse decision to SEC.

Subject to Board Consideration and Approval

Exhibit B

Summary of Proposed New Continued Listing Procedures

1. Staff becomes aware of non-compliance with continued listing standards.
   (a) Standards generally are as follows:

Description	Continued Listing Standard
Stockholders equity/Losses	<\$2 million/losses in 2 out of 3 most recent fiscal years; or <\$4 million/losses in 3 out of 4 most recent fiscal years; or <\$6 million/losses in 5 most recent fiscal years.[1]
Impaired financial condition	Company has sustained losses which are so substantial in relation to its overall operations or its existing financial resources, or its financial condition has become so impaired that it appears questionable as to whether the company will be able to continue operations and/or meet its obligations as they mature.
Limited Distribution/Reduced Market Value	< 200,000 shares publicly held; or < 300 public shareholders; or < \$1 million market value of public float for in excess of 90 consecutive days.
Disposal of Assets/Reduction of Operations	Disposal of principal operating asset, liquidation of company authorized, security without value.
Low selling price	Stock selling for a substantial period of time at a low price.
Other	1934 Act registration/exemption no longer effective, operations contrary to public interest.
Failure to comply with listing agreement	Includes annual report distribution requirements, disclosure, reporting of interim earnings, additional shares, shareholder approval, proxy solicitation, etc.

   (b) Internal procedures now require analysts to review all company filings within 30 days.

2. Company is notified of non-compliance by staff and advised that staff will initiate delisting proceedings unless company:
   (a) Requests an extension of up to 18 months within 10 days of notification.
   (b) Submits a business plan within 30 days of notification, plan must advise of action the company will take to bring it into compliance with the continued listing standards within 18 months and, must contain specific milestones.

3. Company plan is evaluated by LQ management that makes a determination as to whether the company has made a reasonable demonstration of an ability to regain compliance within 18 months.

4. If LQ management accepts the plan:
   (a) Company must issue press release disclosing the fact that it is not in compliance with Amex continued listing standards and that its listing is being continued pursuant to an extension.

[1] Companies approved under the alternate guidelines will be evaluated prospectively.

Subject to Board Consideration and Approval

(b) Plan monitored closely during extension period to determine if company is meeting milestones, LQ management may initiate delisting proceedings during extension period if company is not meeting milestones, if further/additional deterioration occurs or based on public interest concerns.

5. If plan described in 4 is rejected LQ management will initiate delisting proceedings.
   (a) Company will have appeal rights to COS.
   (b) COS can direct LQ management to accept plan and monitor as in 4 above if it finds that the plan does make a reasonable demonstration of an ability to regain compliance.
   (c) Company can appeal an adverse COS decision to Adjudicatory Council (with Board call for review) and then to SEC.

6. At conclusion of extension period LQ management will determine if company has regained compliance.
   (a) If it has, it will receive notification thereof.
   (b) If it has not, LQ management initiates delisting proceedings which company can appeal to COS.
   (c) Company can appeal an adverse COS decision to Adjudicatory Council (with Board call for review) and then to SEC.

Appendix II: Comments From the Securities and Exchange Commission

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

November 16, 2001

Mr. Richard J. Hillman
Director, Financial Markets and
Community Investment
United States General Accounting Office
Washington, DC 20548

Re: GAO's Report entitled <u>Securities Regulation: Weaknesses in the Amex Listing Program Need to be Addressed</u>

Dear Mr. Hillman:

Thank you for the opportunity to comment on the General Accounting Office's (GAO's) report concerning the American Stock Exchange's (Amex's) listing program. We are pleased that Amex, as indicated in its response to your report, will be making changes to its listing program that will address the findings and recommendations outlined in your report.

We strongly support changes that will improve Amex's listing programs and protect investors. Commission staff will continue to work with Amex to ensure that the proposed changes are implemented effectively.

Thank you and your staff for the courtesy extended during this review.

Sincerely,

Lori A. Richards
Director
Office of Compliance
Inspections and Examinations

Annette L. Nazareth
Director
Division of Market Regulation

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